



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1994

Ms. Martha McCabe
General Counsel
Texas General Land Office
Stephen F. Austin Building
1700 North Congress Avenue
Austin, Texas 78701-1495

OR94-554

Dear Ms. McCabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 28237.

The Texas General Land Office (the "GLO") has received a request for "all documents which list or otherwise identify each and every foreclosure at any time since January 1, 1992 of any loan by the Veterans' Land Board," including "all documents which show the address for each property foreclosed during that time and all documents which indicate whether the property is raw land, a residence, an improvement loan, or some other type of property." In addition, the requestor seeks "any and all documents which show the length of time of default before foreclosure and the amount in default at the time of disclosure," and "any and all documents from GLO or VLB [Veterans' Land Board] which indicate the agency's position and policies regarding 1) what conditions will trigger collection efforts as well as 2) which types of collection efforts will be used and in what sequence."¹ You have submitted a representative sample of the requested information to us for review. You claim that section 552.101 of the Government Code exempts some of the requested information from required public disclosure.

¹The requestor has specifically excluded from the scope of his request "telephone or personal contact logs containing reasons and information submitted by veterans regarding their individual loan delinquencies."

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 protects information if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public.

A person's personal financial information may be excepted from required public disclosure under common-law privacy. In Open Records Decision No. 373 (1983) at 3, this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded as follows:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common-law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

Open Records Decision No. 373 at 3. Whether the public has a legitimate interest in such information, however, must be determined on a case-by-case basis. *Id.* at 4; *see also* Open Records Decision Nos. 600 (1992); 545 (1990). In Open Records Decision No. 545, this office applied a similar presumption to personal financial information of public employees and held that, absent "special circumstances," information concerning a public employee's participation in a deferred compensation plan is protected from disclosure by common-law privacy. Open Records Decision No. 545 at 4-5. This office, however, has distinguished between background financial information and information regarding a particular transaction between the individual and a public body. *See* Open Records Decision Nos. 523 (1989); 373. For example, this office has held that the amount of a debt to a public hospital, together with the names of debtors and dates of delinquency, is not excepted by common-law privacy. Open Records Decision No. 385 (1983); *see also* Open Records Decision No. 523 (determining whether certain information in loan files of Veterans' Land Program is protected by right of privacy). Generally, the public has an interest in knowing who owes money to a governmental body. *See* Open Records Decision Nos. 480 (1987) (names and addresses of students who have received and defaulted on loans administered by the Texas Guaranteed Student Loan Corporation not protected by common-law privacy); 443 (1986) (city's utility bill ledgers not confidential under common-law privacy).

You have submitted a computer printout to us for review. It shows certain information about GLO clients who have become delinquent on their loans. The information includes, among other things, the mortgagor's name, principal balance, monthly payment due date, and the months delinquent. We conclude that some of the submitted information is intimate and embarrassing. Such information, however, does not reveal background financial information about any of the GLO's clients. Rather, it merely discloses basic facts regarding particular financial transactions between individuals and the GLO. Such information is of legitimate concern to the public and is not protected by common-law privacy. We conclude, therefore, that the GLO must release the requested information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 28237

cc: Mr. John Greytok
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Austin, Texas 78701
(w/o enclosures)